



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 12, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Kevin P. Harron
5 Patriot Way
North Reading, Massachusetts 01964

RE: MUR 4434

Dear Mr. Harron:

On August 13, 1996, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On September 9, 1997, the Commission, found, on the basis of the information in the complaint, and information provided by you and your wife, Kimberlee A. Brown, that there is no reason to believe you violated 2 U.S.C. § 441f. Accordingly, the Commission closed its file in this matter as it pertains to you. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission has also issued the attached subpoena and order which requires you to provide certain information in connection with its ongoing investigation in this matter. Because this information is being sought as part of an investigation being conducted by the Commission, the confidentiality provision of 2 U.S.C. § 437g(a)(12)(A) applies. That section prohibits making public any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. You are advised that no such consent has been given in this case.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. However, you are required to submit the information within 30 days of your receipt of this subpoena and order. All answers to questions must be submitted under oath.

In addition, although this matter has been closed with respect to you, this matter will not become part of the public record until after it has been closed with respect to all other

respondents involved. The Commission reminds you that the confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact Tony Buckley, the attorney assigned to this matter at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel



By: Lois G. Lerner
Associate General Counsel

Enclosures
Factual and Legal Analysis
Subpoena and Order

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Kevin Harron

MUR: 4434

I GENERATION OF MATTER

This matter was generated by a complaint filed with the Federal Election Commission by Nick Baldick of the Florida Democratic Party. See 2 U.S.C. § 437g(a)(1). The complaint was based on a newspaper report appearing in the June 30, 1996 issue of the *Tampa Tribune*.

II. FACTUAL AND LEGAL ANALYSIS

A. The Complaint

According to the complaint, Mark Sharpe for Congress, the principal campaign committee of Mark Sharpe in the 1994 race for the House seat from Florida's 11th Congressional district ("the Sharpe campaign") violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by reporting inaccurate information on its reports filed with the Commission. Specifically, with regard to a contribution from one Kimberlee Brown, the complaint alleges that Mark Sharpe for Congress should have properly reported her husband, Kevin Harron, an officer at a New England Outback franchise, as the contributor. The complaint suggests that, because the check bore Ms. Brown's signature rather than Mr. Harron's, Ms. Brown and Mr. Harron were involved in the making of a contribution in the name of another which was accepted by the Sharpe campaign.

B. Response to Complaint

Mr. Harron and Ms. Brown, who are married, have responded to the allegation that they were somehow involved in an illegal contribution. According to the response, Mr. Harron decided to contribute to the Sharpe campaign, and asked his wife to make out and mail the check. They further state that Ms. Brown handles all of the couple's personal finances.

C. Applicable Law

Pursuant to 2 U.S.C. § 441f of the Act, no person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person. Absent evidence to the contrary, any contribution made by check, money order, or other written instrument shall be reported as a contribution by the last person signing the instrument prior to delivery to the candidate or committee. 11 C.F.R. § 104.8(c).

D. Analysis

Here, the check in question contained the pre-printed names of Kimberlee Brown and Kevin Harron. Kimberlee Brown's signature was actually on the check. While both Kimberlee Brown and Kevin Harron may have intended for Kevin Harron to make the contribution, the fact that Kimberlee Brown signed the check means that she is properly considered to be the contributor.

Therefore, there is no reason to believe that Kevin Harron violated 2 U.S.C. § 441f.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

)
)
)

MUR 4434

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

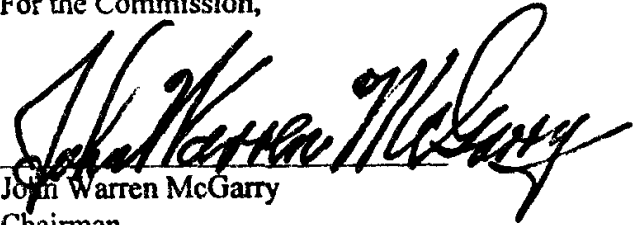
TO: Kevin P. Harron
5 Patriot Way
North Reading, Massachusetts 01964

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

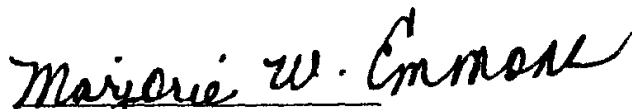
Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 30 days of receipt of this Order and Subpoena.

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his
hand in Washington, D.C. on this 12th day of September, 1997.

For the Commission,


John Warren McGarry
Chairman

ATTEST:


Marjorie W. Emmons
Secretary to the Commission

Attachments
Instructions
Definitions
Questions and Production of Documents

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1994 to the present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained. For all types of documentary records requested, if any of these records are maintained on any storage format for computerized information (e.g., hard drive, floppy disk, CD-ROM), provide copies of the records as maintained on that storage format in addition to hard (i.e., paper) copies.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and request for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

QUESTIONS AND PRODUCTION OF DOCUMENTS

1. Identify each person who solicited a contribution from you for Mark Sharpe for Congress. Include in your identification the method used in soliciting each person, whether by telephone call, written document, in person, or any other method. Produce all documents which relate in any way to your contribution to Mark Sharpe for Congress.
2. Identify all documents consulted in responding to this Subpoena and Order. Identify all individuals, not otherwise identified in response to any of the above questions, who have knowledge or information related to the answers to the above questions.